Majlis Perbandaran Seremban v Tenaga Nasional Bhd

FEDERAL COURT (PUTRAJAYA) — CIVIL APPEAL NO 01(i)-2–02 OF 2019(N)

ZAWAWI SALLEH, ABANG ISKANDAR, IDRUS HARUN, ZALEHA YUSOF AND HASNAH HASHIM FCJJ

6 OCTOBER 2020

Local Government — Rates — Annual value — Valuation list — Notice of amendment to valuation list issued under s 144 of the Local Government Act 1976 ('the Act') — Respondent challenged notice — High Court found in favour of respondent — Appellant filed appeal pursuant to s 145(5) of the Act — Whether pylons belonging to respondent must first be listed in valuation list pursuant to sub-ss 137(1) or (3) of the Act before rates could be imposed and before amendment to valuation list could be made — What was the effect of the words 'or for any other reason whatsoever any rateable holding has not been included in the Valuation List' appearing in s 144(1)(a) of the Act — Local Government Act 1976 ss 137(1), (3), 142, 144(1)(a) & 145(5)

Statutory Interpretation — Canons of construction — Ejusdem generis principle — Interpretation of s 144(1)(a) of the Local Government Act 1976 ('the Act') — General language followed specific terms — What was the effect of the words 'or for any other reason whatsoever any rateable holding has not been included in the Valuation List' appearing in s 144(1)(a) of the Act

The appellant was the local authority of the town of Seremban whilst the respondent was the major supplier of electricity in this country. The respondent had filed an originating summons ('the OS') against the appellant to challenge notices of amendment to the valuation list issued by the appellant pursuant to s 144 of the Local Government Act 1976 ('the Act'). The purpose of the notices was to notify the appellant's intention to impose annual value and assessment rates under s 144 of the Act on the 162 pylons belonging to the respondent situated within the local authority area of the appellant. The respondent submitted that the rates could not be imposed on any holdings by simply adding these pylons into the valuation list by way of amendment under s 144 of the Act because these pylons had never been imposed with rates. Such pylons must first be listed in the valuation list pursuant to sub-ss 137(1) or (3) of the Act before the rates could be imposed. On the other hand, the appellant submitted that the High Court should consider the words '... or of any reason whatsoever any rateable holding has not been included in the Valuation List' as appear in s 144(1)(a) of the Act which according to the appellant signified that the imposition of the rates could still be valid. The High Court found in favour

of the respondent, hence, the appellant filed the present appeal pursuant to s 145(5) of the Act. The issue before the court was: what was the effect of the words 'or for any other reason whatsoever any rateable holding has not been included in the Valuation List' appearing in s 144(1)(a) of the Act.

Held, dismissing the appeal with costs subject to allocator and affirming the High Court's decision:

(1) For the purpose of the present appeal, it ought to be noted that the reasons stated in para 144(1)(a) of the Act were relating to 'any rateable holding'. From the definition section (s 2 of the Act) of the words 'rateable holding', for a holding to be considered as a 'rateable holding', it must be subject to payment of a rate 'made and levied under the Act'. The local authority must first evaluate whether or not the holding in question was subjected to the imposition of rate. Any holding which was not listed in the valuation list was deemed to be considered as being exempted from the imposition of rate. The definition of the phrase 'rateable holding' clearly showed that the amendment to the valuation list could only be made in respect of the properties that have been subjected to the payment of the rate made and levied when the valuation list or revised valuation list was prepared under sub-s 137(1) or (3) of the Act but not otherwise (see paras 26–27 & 38).

(2) It was beyond dispute that each provision or part of a provision must be read in its immediate context and in the context of the Act as a whole. Section 144 of the Act could not be read in isolation from the rest of the provisions in Part XV of the Act (see paras 31–32).

(3) The court was of the view that any holdings which were not listed in the valuation list were deemed to be exempted from the imposition of rates. Although para (a) of sub-s 144(1) of the Act allowed the valuation officer to amend the valuation list for any other reason whatsoever, that did not mean that the valuation officer could do so without having regard to the specific reasons enumerated in paras (a)–(f) of sub-s 144(1) of the Act. If the legislature wished to give so much room for the valuation officer to amend the valuation list, then there was no need to specify reasons as stated in paras (a)–(f) of sub-s 144(1). Therefore, the correct interpretation to the words 'or for any other reason whatsoever' was to confine the reasons to reasons of the same class as mentioned in para (a) of sub-s 144(1) of the Act. When general language followed a series or more specific terms, the class of things referred to by the general language may be read down to refer to narrower class of things to which the specific terms all belong (see paras 33–34 & 37).

[Bahasa Malaysia summary

Perayu adalah pihak berkuasa tempatan di bandar Seremban sementara responden adalah pembekal utama elektrik di negara ini. Responden telah memfailkan saman pemula terhadap perayu untuk mencabar notis pindaan pada senarai nilaian yang dikeluarkan oleh perayu menurut s 144 Akta Kerajaan Tempatan 1976 ('Akta'). Tujuan notis tersebut adalah untuk memberitahu niat perayu untuk mengenakan nilai tahunan dan kadar nilaian di bawah s 144 Akta ke atas 162 tiang milik responden yang berada di dalam kawasan pihak berkuasa tempatan perayu. Responden berhujah bahawa kadar tidak dapat dikenakan pada setiap pegangan dengan hanya menambahkan tiang-tiang ini ke dalam senarai nilaian melalui pindaan di bawah s 144 Akta tersebut kerana tiang-tiang ini tidak pernah dikenakan dengan kadar sebelum ini. Tiang-tiang tersebut mestilah terlebih dahulu disenaraikan dalam senarai nilaian menurut sub-s 137(1) atau (3) Akta sebelum kadar boleh dikenakan. Sebaliknya, perayu berhujah bahawa Mahkamah Tinggi harus mempertimbangkan ayat '... atau kerana apa-apa jua sebab lain, sesuatu pegangan berkadar telah tidak dimasukkan dalam Senarai Nilaian itu' seperti yang terdapat dalam s 144(1)(a) Akta yang menurut perayu menandakan bahawa pengenaan kadar masih boleh berlaku. Mahkamah Tinggi memutuskan untuk memihak kepada responden, oleh itu, perayu memfailkan rayuan semasa berdasarkan s 145(5) Akta. Isu dihadapan mahkamah adalah: apa kesan dari ayat 'atau kerana apa-apa jua sebab lain, sesuatu pegangan berkadar telah tidak dimasukkan dalam Senarai Nilaian itu' yang terdapat dalam s 144(1)(a) Akta.

Diputuskan, menolak rayuan dengan kos tertakluk kepada alokator dan mengesahkan keputusan Mahkamah Tinggi:

(1) Bagi tujuan rayuan ini, harus diambil perhatian bahawa alasan-alasan yang dinyatakan dalam perenggan 144(1)(a) Akta adalah berkaitan dengan 'sesuatu pegangan berkadar'. Berdasarkan bahagian definisi (s 2 Akta) bagi perkataan 'pegangan berkadar', untuk sesuatu pegangan dianggap sebagai 'pegangan berkadar', ia mesti dikenakan pembayaran kadar 'dibuat dan dilevi di bawah Akta'. Pihak berkuasa tempatan mesti menilai terlebih dahulu sama ada pegangan tersebut tertakluk kepada pengenaan kadar. Mana-mana pegangan yang tidak disenaraikan dalam senarai nilaian dianggap dikecualikan dari pengenaan kadar. Definisi frasa 'pegangan berkadar' dengan jelas menunjukkan bahawa pindaan pada senarai nilaian hanya boleh dilakukan berkenaan dengan hartanah yang telah dikenakan pembayaran kadar yang dibuat dan dilevi apabila senarai nilaian atau senarai nilaian yang disemak semula disiapkan di bawah sub-s 137(1) atau (3) Akta tetapi bukan sebaliknya (lihat perenggan 26–27 & 38).

(2) Tidak dapat dipertikaikan bahawa setiap peruntukan atau sebahagian

dari sesuatu peruntukan mesti dibaca dalam konteks langsung dan dalam konteks akta secara keseluruhan. Seksyen 144 Akta tidak boleh dibaca secara terpisah dari peruntukan lain di Bahagian XV Akta tersebut (lihat perenggan 31–32).

(3) Mahkamah berpendapat bahawa setiap pegangan yang tidak disenaraikan dalam senarai nilaian dianggap dikecualikan dari pengenaan kadar. Walaupun perenggan (a) dari sub-s 144(1) Akta memungkinkan pegawai penilaian untuk meminda senarai nilaian dengan apa-apa alasan lain, itu tidak bermaksud bahawa pegawai penilaian boleh melakukannya tanpa memperhatikan alasan khusus yang disebutkan dalam perenggan (a)–(f) sub-s 144(1) Akta. Jika badan perundangan ingin memberikan begitu banyak ruang kepada pegawai penilaian untuk meminda senarai nilaian, maka tiada keperluan menyatakan alasan secara spesifik seperti yang dinyatakan dalam perenggan (a)–(f) sub-s 144(1). Oleh itu, penafsiran yang benar bagi ayat 'atau kerana apa-apa jua sebab lain' adalah untuk membatasi alasan dengan alasan dalam kelas yang sama seperti yang disebutkan di perenggan (a) sub-s 144(1) Akta. Apabila bahasa umum mengikuti siri atau istilah yang lebih spesifik, kelas perkara yang dirujuk oleh bahasa umum tersebut boleh dibaca untuk merujuk kepada kelas perkara yang lebih sempit sama seperti semua istilah spesifik tersebut (lihat perenggan 33–34 & 37).]

Cases referred to

Affin Bank Berhad v Jamaludin bin Jaafar (The Association of Banks in Malaysia & Anor, interveners) [2019] MLJU 560; [2019] 7 CLJ 541, CA (refd)

Majlis Daerah Tapah lwn Syarikat Cahaya Muda Perak (Oil) Sdn Bhd [2017] MLJU 1288; [2017] 1 LNS 1213, HC (folld)

Martego Sdn Bhd v Arkitek Meor & Chew Sdn Bhd and another appeal [2019] MLJU 742; [2019] 8 CLJ 433, FC (refd)

Pihak Berkuasa Tatatertib Majlis Perbandaran Seberang Perai & Anor v Muziadi bin Mukhtar [2020] 1 MLJ 141; [2020] 1 CLJ 1, HC (refd)

R v Edmundson (1859) 28 LJMC 213 (refd)

Reserve Bank of India v Peerless General Finance and Investment Co Ltd 1987 SCR(2) 1 (refd)

Tenaga Nasional Bhd v Majlis Daerah Dungun [2009] 6 MLJ 322, FC (refd)

Tenaga Nasional Bhd v Ong See Teong & Anor (suing on their behalf and for all parties who are the owners or tenants of the Kampung Sungai Terentang — which was served with a notice under ss 13 and 16 of the Electricity Supply Act 1990) [2010] 2 MLJ 155; [2010] 2 CLJ 1, FC (refd)

Legislation referred to

Federal Constitution art 76(4)
Local Council Ordinance 1952

Local Government (Temporary Provisions) Act 1973
Local Government Act 1976 ss 2, 39, 127, 130, 133, 137, 137(1), (2), (3), 141, 142, 143, 144, 144(1), (1)(a), (1)(b), (1)(c), (1)(d), (1)(e), (1)(f), (2), (3), 145(5), 166, Part XV, Second Schedule
Municipal Enactment of Kelantan No 20 of 1938
Municipal Ordinance of Straits Settlements Cap 133
Town Boards Enactment of Johore No 118
Town Boards Enactment of Trengganu Cap 64 3/55 No 118
Town Boards Enactment of the FMS Cap 137

Appeal from: Originating Summons No NA-24NCVC-20-01 of 2018, High Court (Seremban)

Krishna Dallumah V Ganesalingam (Ganesalingam Vijayaratman & Aisha Jothilingam) for the appellant.
Gurmel Singh (Kenth Partnership) for the respondent.

Zaleha Yusof FCJ (delivering judgment of the court):

INTRODUCTION

[1] This is an appeal under sub-s 145(5) of the Local Government Act 1976 ('Act 171') from the decision of the High Court at Seremban. The appellant is the local authority of the town of Seremban whilst the respondent is the major supplier of electricity in this country.

[2] The appellant was the defendant at the High Court and the respondent was the plaintiff. For ease of refencence, we shall refer the parties as they were in the High Court.

[3] The plaintiff had filed an originating summons ('OS') against the defendant to challenge, inter alia, notices issued by the defendant pursuant to s 144 of Act 171. The High Court had allowed prayers (i) and (ii) of the OS based on a preliminary point of law raised by the plaintiff at the outset of the hearing of the OS.

THE PLAINTIFF'S PRELIMINARY POINT OF LAW AT THE HIGH COURT

[4] The preliminary point of law taken by the plaintiff as shown at p 258 of the record of appeal Vol 2 was as follows:

> For the purpose of imposing Annual Value and Assessment Rates on the TNB's (the plaintiff's) 162 pylons, MPS (the defendant) cannot enlist or add these pylons in its Valuation List by way of Amendment to the Valuation List under section 144 of the Act because the [TNB] (the plaintiff) properties have never before been imposed

with rates and have never been listed in the Valuation List under section 137(1) or 137(3) of the Act. A

BACKGROUND FACTS

[5] The defendant had issued a total of 212 notices of amendment to the valuation list, all dated 30 October 2017, to notify the defendant's intention to impose annual value and assessment rates under s 144 on the 212 pylons belonging to the plaintiff situated within the local authority area of the defendant. This exercise was carried out for the purpose of collecting assessment rates, one of the sources of revenue of the defendant as provided by s 39 of Act 171, in its capacity as a local authority. From the 212 pylons, 162 were located on government reserve land and the remaining 50 pylons were on private land. B C

[6] The plaintiff had lodged its objection, by a letter dated 13 November 2017 to the defendant, against the imposition of the annual value and assessment rates by giving its justification. The plaintiff argued that the pylons had never been subjected to the rates before and this was the first time the rates would be imposed on those pylons. D E

[7] The plaintiff's objection, however, was rejected by the defendant's Tax Valuation Appeal Board which led the plaintiff into filing the said OS. However, the OS was only in respect of the 162 pylons situated on the government/reserve land. F

AT THE HIGH COURT

[8] Based on the preliminary point, the plaintiff argued that the rates cannot be imposed on any holdings by simply adding these pylons into the Valuation List by way of amendment under s 144 of Act 171 because these pylons had never been imposed with rates prior to this. It was the plaintiff's contention that such pylons must first be listed in the Valuation List pursuant to sub-s 137(1) or (3) of Act 171 before the rates can be imposed. G H

[9] On the other hand, the defendant argued that the plaintiff must first object to the imposition of the rates pursuant to s 142 of Act 171, before appealing to the Tax Valuation Appeal Board. The defendant also argued that the High Court should also consider the words '… or of any reason whatsoever any rateable holding has not been included in the Valuation List' as appear in para 144(1)(a) of Act 171 which the defendant posited, signify that the imposition of the rates could still be valid. I

[10] The learned High Court judge decided in favour of the plaintiff. His

Lordship ruled that the imposition of the rates on the pylons must not be allowed as the said pylons were never listed in the valuation list pursuant to the statutory provision provided in s 137 of Act 171. The learned High Court judge opined that only when these pylons have been included in the Valuation List the imposition of the rates is valid and enforceable in law.

[11] The learned High Court judge made it clear that he stood guided by the decision on the same issue in the case of *Majlis Daerah Tapah lwn Syarikat Cahaya Muda Perak (Oil) Sdn Bhd* [2017] MLJU 1288; [2017] 1 LNS 1213 which was affirmed and upheld by this court on 26 October 2017. In *Syarikat Cahaya Muda Perak*, the High Court ruled that:

> Berdasarkan analisis dan dapatan ke atas peruntukan undang-undang tersebut, adalah didapati bahawa penetapan kadar bagi sesuatu pegangan baru hendaklah dilakukan dengan mematuhi kehendak s 137, 141 dan 142 Akta 171. Tindakan defendan mengeluarkan Notis Meminda tersebut di bawah s 144 Akta 171 bagi tujuan memasukkan hartanah plaintif, iaitu satu pegangan baru ke dalam Senarai Nilaian sedia ada bagi penentuan kadar adalah berlawanan dengan undang-undang. Kesannya, pengenaan kadar ke atas hartanah plaintif yang dibuat melalui penyerahan Notis Meminda tersebut adalah tidak sah. Defendan seharusnya menyediakan satu Senarai Nilaian baru bagi memasukkan hartanah plaintif di dalam senarai pegangan yang hendak dikenakan cukai taksiran.

ISSUE

[12] The sole issue before us is what is the effect of the words 'or for any other reason whatsoever any rateable holding has not been included in the Valuation List' appearing in para 144(1)(a) of Act 171.

OUR DECISION

[13] Act 171 is a revision and consolidation of all the local government laws in West Malaysia and is intended to have application throughout West Malaysia as a uniform law under cl (4) of art 76 of the Federal Constitution. Under s 166 of Act 171, the Town Boards Enactment of the FMS Cap 137, the Town Boards Enactment of Johore No 118, the Town Boards Enactment of Trengganu Cap 64 3/55 No 118, the Municipal Enactment of Kelantan No 20 of 1938, the Municipal Ordinance of Straits Settlements Cap 133, the Local Council Ordinance 1952 and the Local Government (Temporary Provisions) Act 1973 were repealed to the extent set out in the Second Schedule of Act 171.

[14] At the outset, it must also be borne in mind that 'local government' in Malaysia falls under the purview of State except in relation to the Federal Territories of Kuala Lumpur and Labuan. The enactment of Act 171 had significantly changed the structure of the local government ie after the adoption of the Act there are only two types of local authorities in West

Malaysia — Municipal Councils and District Councils. This structure follows the underlying principle aimed at covering every inch of the country with local authority control and that local authorities will have co-terminus jurisdiction (see: *Laws of City Hall Kuala Lumpur with cases and commentaries*, A Gnanarajah, Director of Legal Affairs, City Hall Kuala Lumpur).

[15] To understand this issue of rating and valuations, let us examine the relevant provisions of Act 171. Provisions on rating and valuation can be found in Part XV under the heading of 'Rating and Valuation' starting from s 127. Section 127 of Act 171 empowers the local authority such as the defendant to impose the annual rate or rates within its local authority. Section 130 of Act 171 provides for the basis of assessment of the rate or rates which may be assessed upon the annual value of holdings or upon the improved value of holdings as the state authority may determine. Section 133 of Act 171 states that the rate or rates so imposed shall endure for any period not exceeding 12 months.

[16] Section 137 of Act 171 talks about the preparation of a valuation list. The valuation list remains in force until it is superseded by a new valuation list which shall be prepared and completed once every five years or within such extended period as the state authority may determine. Section 141 of Act 171 requires that the notice of the new Valuation List to be published once it has been prepared and adopted under s 137. Section 142 of Act 171 enables any person aggrieved by the valuation list to make objections to the local authority within 14 days before the time fixed for the revision of the valuation list.

[17] Section 143 of Act 171, inter alia, requires the local authority to confirm the valuation list on or before 31 December of the year preceding the year in which any valuation list is to come into force, with or without amendment or revision. Although the local authority is not required to hear and determine all objections to the valuation list before confirming it, the local authority is required to hear objections not heard and determined before the valuation list is confirmed as soon as possible, as, until an objections have been heard and determined, the increase in the valuation or new valuation objected to shall not be deemed to be in force and the old rates shall continue to be payable.

[18] As can be seen from the above provisions, any local authority, the defendant included, cannot simply impose any rate of assessment on any holdings without first preparing a valuation list, which list is subject to scrutiny and objection of those affected.

[19] Then comes s 144 of Act 171, the provision of which is in issue before us: s 144 deals with the amendment to the valuation list. Again notice must be

given to all persons interested in the amendment. Any person aggrieved by the amendment to the valuation list may make objection in writing to the local authority not less than ten days before the time fixed in the notice. Any amendment made in the valuation list shall be confirmed by the local authority. Once it is confirmed, the valuation list with amendment shall remain in force until it is superseded by a new valuation list. See sub-s 137(2) of Act 171.

[20] As alluded to earlier, it was the defendant's contention that it had the statutory right to amend the existing valuation list under s 144 of Act 171, to include the 162 pylons belonging to the plaintiff, even though those pylons were never included in the Valuation List. It was argued that the decision in *Syarikat Cahaya Muda Perak*, was not to be followed as it was not supported by any authority on the interpretation of s 144 of Act 171.

[21] It was further argued by the defendant that the decision in *Syarikat Cahaya Muda Perak*, was seriously flawed for the reason that if a holding had already been rated, it was, by necessary implication, already included in the valuation list for rates to be imposed by the local authority. Hence, there was no necessity to amend the valuation list to include such a holding.

[22] To support its contention, the defendant cited the same provisions that were examined by us above, namely Part XV of Act 171, ss 127, 137, 141, 142 and of course 144. The plaintiff also cited the majority decision of this court in *Tenaga Nasional Bhd v Majlis Daerah Dungun* [2009] 6 MLJ 322 at p 337 para 26 as follows:

> [26] By s 144(1), the valuation officer is empowered, for any of the reasons stated therein, to amend the valuation list at any time. It provides that rates shall be payable in respect of the holding in question in accordance with the valuation list as so amended. Section 144(2) requires the giving, to all persons interested in the amendment, of a time at which the amendment is to be made. Section 144(3) gives the right to make objection in writing to the local authority to any person aggrieved by the amendment on any of the grounds specified in s 142. Section 144(5) requires the amendment to be confirmed by the local authority. Section 145(1) gives a right of appeal to the High Court to any person dissatisfied with the decision of the local authority on his objection made under s 144(3) and requires that with the filing of the appeal the amount of the rate appealed against be paid to the local authority. Section 145(5) provides for a further appeal to the Federal Court. Those are all the provisions of the LGA that constitute the process of amendment of a valuation list. It is a simple and straightforward process.

[23] Learned counsel for the defendant emphasised on the last two sentences of the above quoted passage and further submitted that the 'Legislature intended to give a very wide scope to paragraph 144(1)(a) by including the general words 'or for any reason whatsoever'; that the ejusdem generis rule is not applicable to interpret those words as those words do not fall under the

same scope of genus as the particular words 'mistake, oversight or fraud' appearing in the preceeding part of the paragraph. A

[24] As the central issue in this appeal focuses on para 144(1)(a) of Act 171, we reproduce the said provisions as follows: B

> 144 Amendments to Valuation List
>
> (1) Where by reason of —
>
> (a) a mistake, oversight or fraud the name of any person of the particulars of any rateable holding which ought to have been inserted in or omitted from the Valuation List, has been omitted from or inserted in the Valuation List, as the case may be, or any rateable holding has been insufficiently or excessively valued or *for any other reason whatsoever* any rateable holding has not been included in the Valuation List; C
>
> (b)–(f) D
>
> the Valuation Officer may at any time amend the Valuation List accordingly and rates shall be payable in respect of the holding in question in accordance with the Valuation List so amended. (Emphasis added.)

[25] Paragraph 144(1)(a) as shown above lists down three reasons under which valuation officer is empowered to amend the valuation list at any time. The reasons are: E

(a) a mistake, oversight or fraud that the name of any person or the particulars of any rateable holding which ought to have been inserted in or omitted from the valuation list, has been omitted from or inserted in the valuation list, as the case may be; or F

(b) any rateable holding has been insufficiently or excessively valued; or

(c) for any other reason whatsoever any rateable holding has not been included in the valuation list. G

[26] For the purpose of the appeal before us, it is pertinent to note that the reasons stated in para 144(1)(a) of Act 171 are relating to 'any rateable holding'. The words 'rateable holding' and 'holding' are defined respectively in s 2 as follows: H

> 'rateable holding' means a holding which is subject to the payment of a rate made and levied under this Act;
>
> 'holding' means any land, with or without buildings thereon, which is held under a separate document of title and in the case I

[27] From the definition section of the words 'rateable holding', we are of the opinion that for a holding to be considered as a 'rateable holding', it must

be subject to payment of a rate 'made and levied under the Act'. The local authority must first evaluate whether or not the holding in question is subjected to the imposition of rate. Any holding which is not listed in the valuation list is deemed to be considered as being exempted from the imposition of rate. The definition of the phrase 'rateable holding' as shown above, in our view, makes it clear that the *amendment to the valuation list can only be made in respect of the properties that have been subjected to the payment of the rate made and levied when the valuation list or revised valuation list was prepared under sub-s 137(1) or (3) of the Act but not otherwise.*

[28] This view is consistent with the decision of the learned High Court judge in the case of *Syarikat Cahaya Muda Perak*, which was affirmed and upheld by this court on 26 October 2017. It is unfortunate that this court did not give any reason in *Syarikat Cahaya Muda Perak*. We are in full agreement with the view expressed in *Syarikat Cahaya Muda Perak*, that before a local authority prepares a valuation list, it is incumbent upon the local authority to go through a process which leads to identifying which holding that rate may be imposed and which holding may be exempted from the imposition of rate. In the case of holdings used exclusively for recreational, social or welfare purposes and not for pecuniary profit, the state authority may exempt such holdings from payment of all or any rates or may reduce the rate.

[29] It is our considered view, the case of *Majlis Daerah Dungun*, cited by the defendant did not assist the defendant in this instance, as the majority decision of this court in that case merely stated what was stipulated in s 144 of Act 171 without elaborating the effect of the words 'or for any other reason whatsoever any rateable holding has not been included in the Valuation List'. In *Majlis Daerah Dungun*, the issue was whether the appellant's (TNB) failure to object under sub-s 144(3) of Act 171 precluded the appellant from challenging the determination of the annual value and rate on any ground. This court by majority decision delivered by Abdul Aziz Mohamad FCJ held that the door was not closed to the appellant to question the validity of the rates claimed by the respondent therein.

[30] The importance of reading an Act as a whole has been emphasised in many cases. In *Martego Sdn Bhd v Arkitek Meor & Chew Sdn Bhd and another appeal* [2019] MLJU 742; [2019] 8 CLJ 433 this court referred to the case of *Reserve Bank of India v Peerless General Finance and Investment Co Ltd* 1987 SCR(2) 1 wherein Chinnappa Reddy J said:

> Interpretation must depend on the text and the context. They are the bases of interpretation. One may well say if the text is the texture, context is what gives the colour. Neither can be ignored. Both are important. That interpretation is best which makes the textual interpretation match the contextual. A statute is best interpreted when the object and purpose of its enactment is known. With this

knowledge, the statute must be read, first as a whole and then section by section, clause by clause, phrase by phrase and word by word. It a statute is looked at, in the context of its enactment, with the glasses of the statute maker, provided by such context its scheme, the sections, clauses, phrases and words may take colour and appear different than when the statute is looked at without the glasses provided by the context. With these glasses we must look at the Act as a whole and discover what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place.

[31] It is beyond dispute that each provision or part of a provision must be read in its immediate context and in the context of the Act as a whole. When words are read in their immediate context, the reader forms an impression as to their meaning. Any impression based on immediate context must be supplemented by considering the rest of the Act, including all other provisions of the Act and their various structural components (see: *Ruth Sullivan, Driedger on the Construction of States* (3rd Ed) Butterworths).

[32] Therefore, we say, s 144 of Act 171 cannot be read in isolation from the rest of the provisions in Part XV of Act 171. This is because the legislative scheme provided under Part XV under the heading of 'Rating and Valuation' reflects the whole scope of the Act and the real intention of the enacting body in dealing with this issue. As such, the court must not only consider one section but all sections in Act 171, including the relation of one section to the other sections, the relation of a section to the general object intended to be secured by the Act. This is in consonance with the doctrine of harmonious construction as explained by this court in *Pihak Berkuasa Tatatertib Majlis Perbandaran Seberang Perai & Anor v Muziadi bin Mukhtar* [2020] 1 MLJ 141; [2020] 1 CLJ 1, where this court held:

[78] In this regard, it would be convenient for us to discuss the doctrine of harmonious constructions. To put it simply, the doctrine of harmonious construction means a statute should be read as a whole and one provision of the Act should be construed with reference to other provisions in the same Act so as to make a consistent enactment of the whole statute. Such an interpretation is beneficial in avoiding any inconsistency or repugnancy either within a section or between a section and other parts of the statute. The five main principles of this doctrine/rule are as follows:

(a) the court must avoid a head on clash of seemingly contradictory provisions and they must construe the contradictory provisions so as to harmonise them (*see Commissioner of Income Tax v Hindustan Bulk Carriers* [2002] 3 SCC 57, p 74);

(b) the provision of one section cannot be used to defeat the provision contained in another unless the court, despite all its efforts, is unable to find a way to reconcile their differences;

A (c) when it is impossible to completely reconcile the differences in contradictory provisions, the courts must interpret them in such a way that effect is given to both provisions as much as possible (see *Sultana Begum v Prem Chand Jain*, AIR 1997 SC 1006);

B (d) courts must also keep in mind that interpretation that reduces one provision to useless or dead lumber is not harmonious construction (see *Commissioner of Income Tax v Hindustan Bulk Carriers* [2002] 3 SCC 57, p 74); and

(e) to harmonise is not to destroy any statutory provision or to render it fruitless.

C [79] In a nutshell, the doctrine requires that the legislation be construed in a way which would achieve a harmonious result, and that construction should favour coherence in the law.

D **[33]** Having said so, we are of the considered view that any holdings which are not listed in the valuation list are deemed to be exempted from the imposition of rates. Although para 144(1)(a) of Act 171 allows the valuation officer to amend the valuation list for any other reason whatsoever, that does not mean that the valuation officer can do so without having regard to the E specific reasons enumerated in para s 144(1)(a)–(f) of Act 171. It must be borne in mind that 'reasons to amend' are not only found in para (a) of sub-s 144(1) but also in paras (b)–(f) as well. If the legislature wishes to give so much room for the valuation officer to amend the valuation list, then we say there is no need to specify reasons as stated in paras (a)–(f) of sub-s 144(1).

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[34] Therefore, we are of the view, that the correct interpretation to the words 'or for any other reason whatsoever' is to confine the reasons to reasons of the same class as mentioned in para 144(1)(a) of Act 171. When general language follows a series or more specific terms, the class of things referred to by G the general language may be read down to refer to narrower class of things to which the specific terms all belong (see: Judicial Commission of New South Wales, *Statutory Interpretation Principles and Pragmatism for a New Age* (Education Monograph, 2007) at p 129).

H

[35] The rule of statutory construction or interpretation known as *ejusdem generis* principle can be expounded through the following dictum of Lord Campbell in *R v Edmundson* (1859) 28 LJMC 213 at p 215 wherein His Lordship stated the following:

I I accede to the principle laid down ... that, where there are general words following particular and specific words, the general words must be confined to things of the same kind as those specified.

[36] In *Affin Bank Berhad v Jamaludin bin Jaafar (The Association of Banks in*

Malaysia & Anor, interveners) [2019] MLJU 560; [2019] 7 CLJ 541, this court referred to the case of *Tenaga Nasional Bhd v Ong See Teong & Anor (suing on their behalf and for all parties who are the owners or tenants of the Kampung Sungai Terentang — which was served with a notice under ss 13 and 16 of the Electricity Supply Act 1990)* [2010] 2 MLJ 155; [2010] 2 CLJ 1, wherein Augustine Paul FCJ speaking for this court, had this to say:

> [44] ... My view is that *since these preceding words are general words which follow particular and specific words of one genus then it is presumed to be restricted to the same genus as the particular words. Meaning: the general expression is to be read as comprehending things of the same kind as that designated by the preceding particular expression unless there is something to show that a wider sense was intended* — see *Public Prosecutor v Pengurus Hong Trading & Co* [1985] 1 MLJ 366 at p 367; [1984] 2 CLJ 415 Rep at p 417:
>
> > I am further of the view that the words 'other matter' found in reg 3(v)(ii) of the regulation should be read ejusdem generis with 'Prussian blue, lead or compounds of lead' which according to the Deputy Public Prosecutor are poisonous or deleterious to the human body. According to a well-established rule of construction of statutes, general terms following particular ones apply only to such persons or things as are ejusdem generis with those comprehended in the language of the legislature. In other words, the general expression is to be read as comprehending things of the same kind as that designated by the preceding particular expressions, unless there is something to show that a wider sense was intended. (Emphasis added.)

[37] We, therefore, agree with learned counsel for the plaintiff's submission that if the intention of the Parliament was to give the general words '... or for any reason whatsoever any rateable holding has not been included in the Valuation List' an unrestricted and unfettered meaning to embrace all and any reason, it would not have been necessary to enumerate the specific reasons preceding the words and all specific reasons enumerated in s 144(1)(a)–(f) of the Act. It would have sufficed to use only one compendious expression or use the general words '... for any reason whatsoever any rateable holding has not been included in the Valuation List' without having to include the other paragraph.

[38] Further, we must not forget that the words 'for any other reasons whatsoever' in para 144(1)(a) of Act 171 do not stop just there. Those words follow with the words 'any rateable holding'. As we have shown earlier in para 26, 'rateable holding' is defined as a holding which is subject to the payment of a rate made and levied under Act 171. It means, and very clearly too as we have explained in para 27 that no amendment to the valuation list can be made in respect of the properties unless those properties have been subjected to the payment of the rate made and levied when the valuation list or revised valuation list was prepared under s 137 of Act 171.

A CONCLUSION

[39] For the reasons above stated, we found there was no basis to disturb the decision of the learned High Court judge. We shall reiterate, for the purpose of imposing annual value and assessment rates on the 162 pylons of the plaintiff, the defendant cannot simply enlist or add those pylons in its valuation list by way of amendment to the valuation list under s 144 of the Act 171 as the pylons were not rateable holding, that they had never before been imposed with rates and had never been listed in the valuation list under s 137 of Act 171. Despite the words 'or for any reason whatsoever any rateable holding has not been included in the Valuation List', rates cannot be imposed unless the holding is first listed in the valuation list as provided for by s 137.

[40] Consequently, we dismissed the appeal with costs subject to allocator and the decision of the High Court was therefore affirmed.

Appeal dismissed with costs subject to allocator; High Court's decision affirmed.

Reported by Dzulqarnain bin Ab Fatar